

Senate File 449

SENATE FILE _____
BY COMMITTEE ON WAYS AND MEANS
(SUCCESSOR TO SF 437)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act providing a wind energy production tax credit under the
2 individual and corporate income taxes, the franchise tax, and
3 insurance premiums tax and including an applicability date
4 provision.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 2813SV 80
7 mg/pj/5

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1 1 Section 1. NEW SECTION. 422.11H WIND ENERGY PRODUCTION
1 2 TAX CREDIT.
1 3 The taxes imposed under this division, less the credits
1 4 allowed under sections 422.12 and 422.12B, shall be reduced by
1 5 a wind energy production tax credit allowed under chapter
1 6 476B.
1 7 Sec. 2. Section 422.33, Code 2003, is amended by adding
1 8 the following new subsection:
1 9 NEW SUBSECTION. 14. The taxes imposed under this division
1 10 shall be reduced by a wind energy production tax credit
1 11 allowed under chapter 476B.
1 12 Sec. 3. Section 422.60, Code 2003, is amended by adding
1 13 the following new subsection:
1 14 NEW SUBSECTION. 7. The taxes imposed under this division
1 15 shall be reduced by a wind energy production tax credit
1 16 allowed under chapter 476B.
1 17 Sec. 4. NEW SECTION. 432.12D WIND ENERGY PRODUCTION TAX
1 18 CREDIT.
1 19 The taxes imposed under this chapter shall be reduced by a
1 20 wind energy production tax credit allowed under chapter 476B.
1 21 Sec. 5. NEW SECTION. 476B.1 DEFINITIONS.
1 22 For purposes of this chapter, unless the context otherwise
1 23 requires:
1 24 1. "Board" means the utilities board within the utilities
1 25 division of the department of commerce.
1 26 2. "Department" means the department of revenue and
1 27 finance.
1 28 3. "Qualified electricity" means electricity produced from
1 29 wind at a qualified facility.
1 30 4. "Qualified facility" means an electrical production
1 31 facility that meets all of the following:
1 32 a. Produces electricity from wind.
1 33 b. Is located in Iowa.
1 34 c. Was originally placed in service on or after July 1,
1 35 2004, but before July 1, 2007.
2 1 Sec. 6. NEW SECTION. 476B.2 GENERAL RULE.
2 2 The owner of a qualified facility shall, for each kilowatt=
2 3 hour of qualified electricity that the owner sells during the
2 4 ten-year period beginning on the date the qualified facility
2 5 was originally placed in service, be allowed a wind energy
2 6 production tax credit to the extent provided in this chapter
2 7 against the tax imposed in chapter 422, divisions II, III, and
2 8 V, and chapter 432.
2 9 Sec. 7. NEW SECTION. 476B.3 CREDIT AMOUNT.
2 10 The wind energy production tax credit allowed under this
2 11 chapter equals the product of one cent multiplied by the
2 12 number of kilowatt=hours of qualified electricity sold by the
2 13 owner during the taxable year.
2 14 Sec. 8. NEW SECTION. 476B.4 LIMITATIONS.
2 15 1. a. The wind energy production tax credit shall not be
2 16 allowed for any kilowatt=hour of electricity produced on wind
2 17 energy conversion property for which the owner has claimed or
2 18 otherwise received for that property the benefit of special
2 19 valuation under section 427B.26 or section 441.21, subsection
2 20 8, or the exemption from retail sales tax under section

2 21 422.45, subsection 48.

2 22 b. The disallowance of the tax credit pursuant to
2 23 paragraph "a" does not apply to an owner of a qualified
2 24 facility that owns, directly or indirectly, in the aggregate,
2 25 a total annual turbine nameplate capacity of all such property
2 26 of less than one megawatt.

2 27 2. The wind energy production tax credit shall not be
2 28 allowed for any kilowatt-hour of electricity that is sold to a
2 29 related person. For purpose of this subsection, persons shall
2 30 be treated as related to each other if such persons would be
2 31 treated as a single employer under the regulations prescribed
2 32 under section 52(b) of the Internal Revenue Code. In the case
2 33 of a corporation that is a member of an affiliated group of
2 34 corporations filing a consolidated return, such corporation
2 35 shall be treated as selling electricity to an unrelated person
3 1 if such electricity is sold to such a person by another member
3 2 of such group.

3 3 Sec. 9. NEW SECTION. 476B.5 APPLICATION FOR TAX CREDIT
3 4 CERTIFICATES.

3 5 1. To receive the wind energy production tax credit, an
3 6 owner of the qualified facility must submit an application for
3 7 a tax credit certificate to the board not later than thirty
3 8 days after the close of its taxable year. The owner's
3 9 application must contain, but need not be limited to, all of
3 10 the following information: the owner's name, tax
3 11 identification number, and address, the number of kilowatt=
3 12 hours of qualified electricity sold by the owner during the
3 13 preceding taxable year, the address of the qualified facility
3 14 at which the qualified electricity was produced, a certified
3 15 statement of the number, if any, of kilowatt-hours of
3 16 electricity produced on wind energy conversion property for
3 17 which the owner has claimed or otherwise received for that
3 18 property the benefit of special valuation under section
3 19 427B.26 or section 441.21, subsection 8, or the exemption from
3 20 the retail sales tax under section 422.45, subsection 48, and
3 21 the denomination that each tax credit certificate is to carry.

3 22 2. The board shall, in conjunction with the department,
3 23 prescribe appropriate forms and instructions to enable owners
3 24 to claim the tax credit allowed under this chapter. If the
3 25 board prescribes these forms and instructions, an owner's
3 26 application for a tax credit certificate shall not be valid
3 27 unless made on and in accordance with these forms and
3 28 instructions.

3 29 Sec. 10. NEW SECTION. 476B.6 ISSUANCE OF TAX CREDIT
3 30 CERTIFICATES.

3 31 1. If the owner meets the criteria for eligibility for the
3 32 wind energy production tax credit, the board shall determine
3 33 the validity of the application and if valid, shall issue one
3 34 or more tax credit certificates to the owner not later than
3 35 thirty days after the application is submitted to the board.

4 1 Each tax credit certificate must contain the owner's name,
4 2 address, and tax identification number, amount of tax credits,
4 3 and the expiration date of the tax credit certificate, which
4 4 shall be seven years from its date of issuance and any other
4 5 information required by the department. Once issued by the
4 6 board, the tax credit certificate shall be binding on the
4 7 board and the department and shall not be modified,
4 8 terminated, or rescinded.

4 9 2. If the tax credit application is filed by a
4 10 partnership, limited liability company, S corporation, estate,
4 11 trust, or other reporting entity all of the income of which is
4 12 taxed directly to its equity holders or beneficiaries, the tax
4 13 credit certificate may, at the election of the owner, be
4 14 issued directly to equity holders or beneficiaries of the
4 15 owner in proportion to their pro rata share of the income of
4 16 such entity. If the owner elects to have the tax credit
4 17 certificate issued directly to its equity holders or
4 18 beneficiaries, the owner must, in the application made under
4 19 section 476B.5, identify its equity holders or beneficiaries,
4 20 and the amount of such entity's income that is allocable to
4 21 each equity holder or beneficiary.

4 22 Sec. 11. NEW SECTION. 476B.7 TRANSFER OF TAX CREDIT
4 23 CERTIFICATES.

4 24 Wind energy production tax credit certificates issued under
4 25 this chapter may be transferred to any person or entity.
4 26 Within thirty days of transfer, the transferee must submit the
4 27 transferred tax credit certificate to the board along with a
4 28 statement containing the transferee's name, tax identification
4 29 number, and address, and the denomination that each
4 30 replacement tax credit certificate is to carry and any other
4 31 information required by the department. Within thirty days of

4 32 receiving the transferred tax credit certificate and the
4 33 transferee's statement, the board shall issue one or more
4 34 replacement tax credit certificates to the transferee. Each
4 35 replacement certificate must contain the information required
5 1 under section 476B.6 and must have the same expiration date
5 2 that appeared in the transferred tax credit certificate. Tax
5 3 credit certificate amounts of less than the minimum amount
5 4 established by rule of the board shall not be transferable. A
5 5 tax credit shall not be claimed by a transferee under this
5 6 chapter until a replacement tax credit certificate identifying
5 7 the transferee as the proper holder has been issued.
5 8 The tax credit shall only be transferred once. The
5 9 transferee may use the amount of the tax credit transferred
5 10 against the taxes imposed under chapter 422, divisions II,
5 11 III, and V, and chapter 432 for any tax year the original
5 12 transferor could have claimed the tax credit. Any
5 13 consideration received for the transfer of the tax credit
5 14 shall not be included as income under chapter 422, divisions
5 15 II, III, and V. Any consideration paid for the transfer of
5 16 the tax credit shall not be deducted from income under chapter
5 17 422, divisions II, III, and V.

5 18 Sec. 12. NEW SECTION. 476B.8 USE OF TAX CREDIT
5 19 CERTIFICATES.

5 20 To claim a wind energy production tax credit under this
5 21 chapter, a taxpayer must attach one or more tax credit
5 22 certificates to the taxpayer's tax return. A tax credit
5 23 certificate shall not be used or attached to a return filed
5 24 prior to July 1, 2005. The tax credit certificate or
5 25 certificates attached to the taxpayer's tax return shall be
5 26 issued in the taxpayer's name, expire on or after the last day
5 27 of the taxable year for which the taxpayer is claiming the tax
5 28 credit, and show a tax credit amount equal to or greater than
5 29 the tax credit claimed on the taxpayer's tax return. Any tax
5 30 credit in excess of the taxpayer's tax liability for the
5 31 taxable year may be credited to the taxpayer's tax liability
5 32 for the following seven taxable years or until depleted,
5 33 whichever is the earlier.

5 34 Sec. 13. NEW SECTION. 476B.9 REGISTRATION OF TAX CREDIT
5 35 CERTIFICATES.

6 1 The board shall, in conjunction with the department,
6 2 develop a system for the registration of the wind energy
6 3 production tax credit certificates issued or transferred under
6 4 this chapter and a system that permits verification that any
6 5 tax credit claimed on a tax return is valid and that transfers
6 6 of the tax credit certificates are made in accordance with the
6 7 requirements of this chapter. The tax credit certificates
6 8 issued under this chapter shall not be classified as a
6 9 security pursuant to chapter 502.

6 10 Sec. 14. APPLICABILITY DATE. This Act applies to tax
6 11 years beginning on or after January 1, 2004.

6 12 SF 449
6 13 mg/cc/26
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